

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

VENTANA MEDICAL SYSTEMS, INC.,

Plaintiff,

v.

VISION BIOSYSTEMS, INC.,

Defendant.

CIVIL ACTION NO. 05-CV-10614-GAO

**MOTION FOR EXPEDITED HEARING ON PLAINTIFF'S MOTION TO COMPEL
PRODUCTION OF DOCUMENTS AND FOR EXTENSION
OF DEADLINE FOR EXPERT REPORTS**

Ventana Medical Systems, Inc. ("Ventana") hereby moves this Court for an expedited hearing on the Emergency Motion to Compel Production of Documents and for Extension of Deadline for Expert Reports (the "Emergency Motion") in connection with the above-captioned case. As set forth more fully in the Emergency Motion, which is incorporated by reference herein, the Defendant Vision Biosystems, Inc. ("Vision") has refused to produce highly relevant documents, with no explanation and, in some cases, after expressly agreeing to their production. Vision's refusal and/or unexplained delay in producing these documents until the end of fact discovery¹ and after the completion of depositions of Vision and its employees has severely prejudiced Ventana's ability to obtain fact discovery and threatens to prejudice Ventana's ability to meet the September 29, 2005 deadline for Ventana's expert reports.² Therefore, an expedited hearing on the Emergency Hearing

¹ The deadline for completion of fact discovery is September 23, 2005.

² The parties have agreed to a seven (7) calendar extension for the expert report of Ted Williams due to his hospitalization last week which is the subject of an *Agreed Motion for Extension for Certain Expert Reports*.

is necessary under the circumstances to allow adequate time for Ventana to prepare its expert reports, which are presently due next week.

WHEREFORE, Ventana respectfully requests that this Court (1) grant an expedited hearing on the Emergency Motion and (2) such other and further relief as the Court deems just under the circumstances.

Respectfully submitted,

VENTANA MEDICAL SYSTEMS, INC.,

By its attorneys:



Brian L. Michaelis (BB0# 555159)
Robert L. Harris (BBO# 644829)
Brown Rudnick Berlack Israels, LLP
One Financial Center
Boston, MA 02111
Tel. (617) 856-8200
Fax (617) 856-8201

- and -

Jeffrey N. Danis (BBO# 113880)
Ventana Medical Systems, Inc.
1910 Innovation Park Drive
Oro Valley, AZ 85737
Tel. (520) 229-3965
Fax. (520) 229-4216

Dated: September 23, 2005

LOCAL RULE 7.1(A)(2) CERTIFICATION

Counsel hereby certifies, in accordance with Local Rule 7.1(A)(2) that prior to filing this paper the parties have conferred and attempted in good faith to resolve or narrow the issues presented herein.



Robert L. Harris

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing pleading was served, via hand delivery and Federal Express on counsel for Vision in this matter on this 23 day of September 2005

(Via Federal Express)
Elizabeth A. Leff, Esquire
Rothwell, Figg, Ernst & Manbeck
1425 K Street, NW, Suite 800
Washington, D.C. 20005

(Via Hand Delivery)
Christine M. Roach, Esquire
Roach & Carpenter, PC
24 School Street
Boston, MA 02108



Robert L. Harris